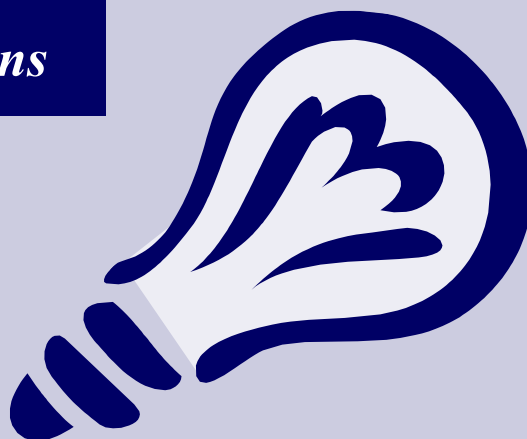




**Biennial Report  
July 1, 2001 through  
June 30, 2003**



*assuring safe,  
reliable utility  
services for all  
kentuckians*



Ernie Fletcher  
Governor



LaJuana S. Wilcher  
Secretary

Commonwealth of Kentucky  
**Environmental and Public Protection Cabinet**  
**Public Service Commission**

211 Sower Blvd.  
P.O. Box 615  
Frankfort, Kentucky 40602-0615  
Telephone: (502) 564-3940  
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April 12, 2004

The Honorable Ernie Fletcher  
Governor  
Commonwealth of Kentucky  
The Capitol  
700 Capitol Avenue  
Frankfort, Kentucky 40601

Dear Governor Fletcher:

The Kentucky Public Service Commission is pleased to submit to you, the members of the General Assembly, and the citizens of Kentucky, the Commission's 34<sup>th</sup> Biennial Report. This report presents the activities, and accomplishments of the Public Service Commission from July 2001 through June 2003.

The mission of the Public Service Commission is to ensure that all citizens of the Commonwealth receive safe and adequate utility service at fair, just and reasonable rates.

Recent years have brought enormous change to the utility and telecommunication industries. The Public Service Commission carefully monitors each of the utilities we regulate, and seeks to be proactive in our approach to the changing regulatory environment. As the industries change, the Public Service Commission is committed to maintaining a positive regulatory environment for the citizens and businesses of the Commonwealth.

Respectfully submitted,

PUBLIC SERVICE COMMISSION OF KENTUCKY

Mark David Goss  
Chairman

Ellen C. Williams  
Vice Chairman

Martin J. Huelsmann  
Commissioner



# The Kentucky Public Service Commission

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## Biennial Report July 1, 2001-June 30, 2003

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## The Kentucky Public Service Commission

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### Biennial Report

July 1, 2001 - June 30, 2003

## Introduction

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**The Kentucky Public Service Commission (PSC)** is charged with regulating the intrastate rates and services of over 1,500 utility companies throughout the state of Kentucky. The Commission was created in Chapter 145 of the Acts of the Kentucky 1934 General Assembly.

During the 2001-2003 biennium, the PSC was within the Environmental and Public Protection Cabinet. Three appointed Commissioners who have quasi-legislative and quasi-judicial duties lead the Commission. It has a staff of 115.

The agency is funded through an assessment paid by utilities within the Commission's jurisdiction. The assessment is based upon annual gross intrastate revenues.

Utilities under PSC jurisdiction include investor-owned electric, natural gas, telecommunications, certain water and sewage utilities, rural electric and telephone cooperatives, and water districts and associations. The PSC does not regulate utilities subject to the control of cities, political subdivisions or those served by the Tennessee Valley Authority.

The mission of the PSC is to ensure that utilities charge fair, just and reasonable rates for the services provided and that those services are adequate, efficient, safe and reliable.

To accomplish this objective, the PSC holds both public meetings and hearings. Public meetings provide the citizens of the Commonwealth an opportunity to express their views on utility issues. Hearings are designed to gather the technical and financial information and the sworn testimony needed by the commissioners to make an informed decision on the cases that come before them.

Rules and procedures in hearings are similar to those used in a court of law. Through these processes, the Commission makes final decisions in cases that affect

utility rates, construction, financing, certification, formal complaints brought against utilities and show cause proceedings to determine whether a utility has failed to comply with applicable statutes or regulations.

The Commission performs its regulatory functions through written orders following procedures outlined in Chapter 278 of the Kentucky Revised Statutes and administrative regulations promulgated by the Commission in Chapter 807 of the Kentucky Administrative Regulations.

Changes in PSC jurisdiction have included the removal of municipally owned utilities from Commission authority in 1936 by the Kentucky General Assembly.

In 1950, the legislature transferred street railways from the Commission's jurisdiction to that of the Department of Motor Transportation. In 1964, the PSC's jurisdiction was expanded to include water districts; again in 1972 to include water associations; and in 1975 to include privately owned sewage companies.

In 1987 sanitation districts were removed from Commission jurisdiction. In 1994, the Kentucky Supreme Court in the case of Simpson County Water District v. City of Franklin, Kentucky, Ky., 872 S.W.2d 460 (1994), concluded that the Commission retained jurisdiction to review the wholesale rates of municipal utilities that provide service to jurisdictional utilities.

In 2002, the General Assembly relieved the PSC of its responsibility to determine cellular telephone tower placement in jurisdictions with local planning and zoning authority.

Also in 2002, the legislature created the Kentucky State Board on Electric Generation and Transmission Siting. All three PSC commissioners are *ex officio* members of the board. The PSC provides staff support to the Siting Board.

# Commission Organization

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## Commissioners' Office

The Commission is comprised of three full-time Commissioners, each appointed by the Governor with the consent of the Senate. The Commissioners serve staggered four-year terms.

The Governor names the Chairman, a Vice Chairman to serve in the Chairman's absence, and a Commissioner.

No more than two members may be of the same occupation.

The Commissioners are primarily responsible for reviewing and deciding cases filed with the PSC, issuing regulations, and developing policy.

They work with staff to conduct investigations, to hold hearings and public meetings, and to re-

view testimony and exhibits filed by utilities and other parties that appear before the Commission.

The Commissioners' Office also includes a Hearing Examiner who presides over selected public hearings and a Staff Assistant who advises the three Commissioners on various issues.

## PSC Commissioners

### Mark David Goss, Chairman



**Chairman**  
**Mark David Goss**

Mark David Goss was appointed chairman of the Kentucky Public Service Commission by Gov. Ernie Fletcher on February 3, 2004. His term expires June 30, 2007.

Before joining the PSC, Mr. Goss was a partner with his father, Eugene Goss, in the law firm of Goss & Goss Attorneys in Harlan. He represents the fourth generation to join his family's law firm.

In his law practice, Mr. Goss appeared before many state and local agencies, including the Kentucky Workers Compensation Board, the Kentucky Board of Claims, the U.S. Department of Labor and others. He has made appellate appearances at the agency level and before the Kentucky Court of Appeals, the Kentucky Supreme Court and the U.S. Circuit Court of Appeals. Mr. Goss also has additional experience in banking law, criminal law, real estate law, probate law and corporate law.

Mr. Goss is a member of the Harlan County, Kentucky and Federal Bar Associations. He is admitted to practice in all Kentucky Courts and in federal courts at the District and Circuit Court levels, as well as the Supreme Court of the United States.

Mr. Goss has been active in his community, particularly in promoting industrial development and education. He has served on the Harlan County Industrial Development Commission, the Harlan County Judicial Center Planning Committee, and as Chairman of the Buildings and Facilities Committee of the Harlan Independent School System. Mr. Goss is a member of the Board of Directors of the Bank of Harlan. He is a Deacon of the Harlan Baptist Church.

Mr. Goss received his Juris Doctor degree from the University of Tennessee College of Law. He holds a Bachelor of Arts degree in Political Science from Transylvania University.

## Ellen C. Williams, Vice Chairman

Ellen C. Williams was appointed to the Kentucky Public Service Commission on April 12, 2004, to fill the unexpired term of Garry Gillis. Her term ends June 30, 2005.

Before joining the PSC, Ms. Williams served five years as chairman and executive director of the Republican Party of Kentucky. She also chaired the Site Selection Committee for the 2004 Republican Convention.

Ms. Williams previously served as a government relations consultant to the Lexington Board of Realtors.

Ms. Williams spent 10 years in gov-

ernment service in Washington, D.C. She began her career as a staff assistant to U.S. Representative Larry J. Hopkins (KY-6). She then worked for President Ronald Reagan and Vice President George Bush in the White House and for U.S. Senators Bob Kasten (WI), and Don Nickles (OK).

Ms. Williams is active in the Anderson County Independent Youth Soccer Association and is a volunteer in the Anderson County Public Schools.

She is the mother of two sons, Sam, 13 and Joey 11.

Ms. Williams holds a Bachelor of Arts degree in Business Education from the University of Kentucky.



**Vice Chairman**  
**Ellen C. Williams**

## Martin J. Huelsmann, Commissioner

**Martin J. "Marty" Huelsmann** was appointed to the Kentucky Public Service Commission August 1, 2000. His appointment ends June 30, 2004. He served as Chairman until February 3, 2004. Before his appointment as Chairman, he served as Executive Director of the Kentucky Public Service Commission beginning in January 2000.

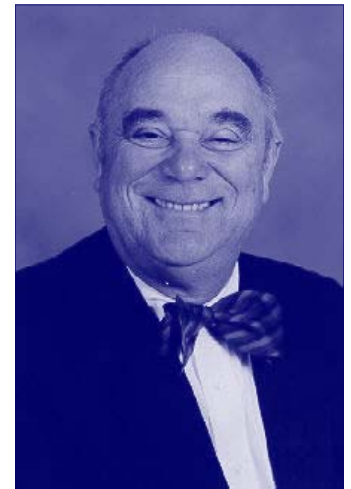
Mr. Huelsmann has also served as Deputy Secretary for the Kentucky Justice Cabinet, and Assistant County Attorney in Kenton County, and is currently on leave from his professorship at the Salmon P. Chase College of Law at Northern

Kentucky University.

Mr. Huelsmann received the Salmon P. Chase American Inn of Court Award of Excellence. His previous gubernatorial appointments include the Executive Ethics Committee, the Task Force on Education and the Criminal Justice Council.

In addition, Mr. Huelsmann has served as councilman for the city of Ft. Mitchell.

Mr. Huelsmann received a BBA degree from the University of Cincinnati and is a graduate of the Salmon P. Chase College of Law at Northern Kentucky University.



**Commissioner**  
**Martin J. Huelsmann**

## Executive Director's Office

As Executive Director, **Thomas M. Dorman** serves as the chief administrative officer for the commission.

He is responsible for staff direction and coordination in implementing the programs and duties of the 125 member staff. Mr. Dorman is assisted by **William H. Bowker**, Deputy Executive Director.

The Executive Director's office also schedules hearings, attests commission orders, and responds to specific and general inquiries. The office also includes the public information office and administrative services. The Executive Director's office processed 2,334 orders during the 2001-2003 biennium.



**Executive Director**  
**Thomas M. Dorman**



## Filings Division

The Filings Division, directed by **David E. Brown**, serves as the primary point of contact for daily business relations between the Commission, regulated utility operations, other state agencies and members of the public. The Director of Filings is charged with the oversight of all documents submitted to, and issued by, the Commission in regulatory matters. Functional responsibilities within the Division are divided among five primary areas of expertise, consisting of docket control, utility financial reports, utility tariff review, information technology and geographic information systems.

A major goal for 2003 has been to expand electronic filing of case-related materials and to implement an improved web-based electronic filing system.

The webmaster keeps the PSC web page up to date and provides information to the public. Our web site is heavily used by the business community and the public, registering 85,000 visits in 2002 and 150,000 visits for 2003.

The geographic information systems specialist provides information to staff in the form of maps and reports for cases before the Commission or the Electric Generation and Trans-

mission Siting Board, support for emergency situations such as gas transmission line incidents and power outages, and maintaining existing databases to support Commission decisions.

The information technology staff is responsible for development and maintenance of all automated systems used within the Public Service Commission.

The Division serves as a liaison between the public, the Commission and utilities. It has 24 employees.



## Division of Consumer Services

The Division of Consumer Services, led by Director **Virginia L. Smith**, provides informal complaint resolution for the state's regulated utility customers.

The Division of Consumer Services staff's objective is to resolve complaints at the informal level, if possible, instead of opening a formal proceeding.

During the biennium, the division handled 9,347 informal complaints against utilities. These

complaints are received by telephone, fax, letter, e-mail, and walk-ins. During this same period, the division received approximately 60,000 telephone calls from consumers seeking general information or wishing to file a complaint. Many of these calls resulted in dollar savings to customers. Since July 2001, \$888,599.26 has been recovered on behalf of consumers.

The division is also responsible for consumer education and has developed a number of brochures on various issues of importance to consumers. The division also manages the PSC speaker's bureau.

Ginny Smith and her staff of five investigators work closely with utilities to resolve concerns before they become major issues that would require the Commission's action.

## Division of Engineering

The Division of Engineering, directed by **Robert A. Amato, PE**, consists of the Electric Branch, the Communications Branch, the Gas Branch, the Water and Sewer Branch and the Meter Testing Laboratory.

The division is responsible for the service aspects of utility operations. The division conducts service and safety investigations, investi-

gates accidents, performs utility plant inspections, and tests and certifies utility meter standards.

The division provides the Commission with an analysis of all utility requests for construction certificates, changes in depreciation rates, service-related expenses in rate cases, and load management programs.

Additionally, the engineering staff is involved in advising the

PSC and outside groups on the technical aspects of utility industry restructuring and deregulation issues.

The division assists in the development of emergency plans to meet service interruptions and administers certain federally-mandated gas safety programs. The division includes 25 employees.

## Division of General Counsel

The Division of General Counsel is directed by **Deborah T. Eversole, Acting General Counsel**. It provides legal counsel to the Commission and the staff regarding the legal issues involved in jurisdiction, rate-making, financing, facility construction, quality of service and safety.

The legal staff also advises the PSC on potential legislation and handles the regulatory promulgation process.

Additionally, the attorneys represent the Commission before state and federal courts and federal agencies such as the

Federal Communications Commission and the Federal Energy Regulatory Commission.

The division includes eight attorneys and two support staff.

PUBLIC SERVICE  
COMMISSION  
OF KENTUCKY

## Division of Financial Analysis

The Division of Financial Analysis, headed by **Aaron D. Greenwell**, consists of seven branches: the Electric and Gas Rate Design Branch, the Electric and Gas Revenue Requirements Branch, the Water, Sewer, and Telephone Rate Design Branch, the Water and Sewer Revenue Requirements Branch, the Communications Revenue Requirements Branch, the Management Audit Branch, and the Financial Audits Branch.

The division is responsible for providing expert financial advice to the Commission relative to utility requests for rate increases, tariffed rates and services, cost of service studies, rate designs, financing, and acquisitions. The division takes the lead in processing the six-month and two-year electric fuel adjustment cases, purchased gas and purchased water adjustment cases, the environmental surcharge cases, the merger surcredit cases and the earnings-sharing cases. Additionally, the division is responsible for financial audits, management audits and accounting and financial auditing matters.

Other responsibilities include analyzing and commenting on changes in federal and state policies that could affect Kentucky ratepayers, and implementing new accounting policies.

The duties and responsibilities as well as the staff of the former Division of Research were recently transferred to the Financial Analysis Division. Prior to the transfer, the research staff provided support to the Commission and Commission staff through analysis of regulatory matters.

Research duties include tracking emerging issues and evaluating the potential impact on utility customers and utility regulation in Kentucky. Pending state and federal legislation and agency rulemakings that may significantly affect utility customers in Kentucky are analyzed in depth so the Commission may participate when necessary to support or oppose these actions. Economic analyses in cases that involve issues of first impression that come before the Commission are also provided. The Financial Analysis Division is comprised of 24 employees.

## Commission administration

In 2003, the former Division of Administrative Services was consolidated within the Office of Executive Director. The principal function remains the production of and adherence to the Public Service Commission's biennial budget.

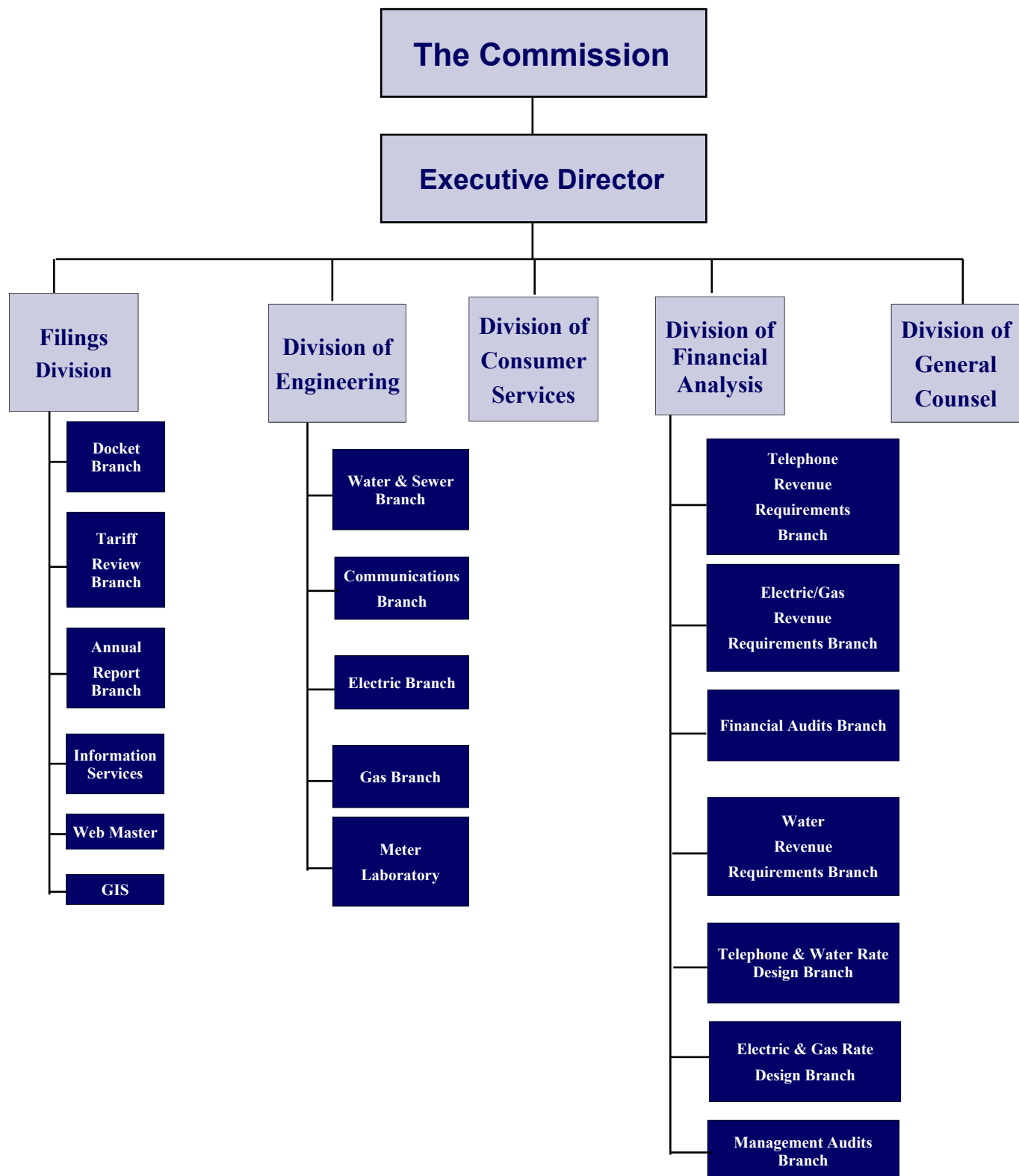
Commission administrative personnel process and ensure all receipts, expenditures, fiscal inventory, and personnel actions comply with established policies, procedures, rules, and regulations.

Staff members also: administer the Equal Employment Opportunity and American's with Disability Acts; coordinate insurance coverage and time and attendance records for Commission employees; operate the telephone switchboard; and provide clerical support to other Divisions within the Commission.

Four staff members within the Office of Executive Director are responsible for carrying out these functions.



# PSC Organizational Chart





# Staff Directory

*All Commission staff may be reached at (502) 564-3940.*

*To contact a specific division or staff member, please use the following extensions.*

## Commission Operations

Mark David Goss, Chairman	201
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## Executive Director's Office

Thomas M. Dorman, Executive Director	212
William H. Bowker, Deputy Executive Director	211
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## Filings Division

David Brown, Director	266
Annual Reports Branch	271
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Web Master	449
Geographic Information Services	451

## Division of Engineering

Robert A. Amato, Director	400
Communications Branch	418
Electric Branch	421
Gas Branch	425
Water and Sewer Branch	409
Meter Laboratory	465

## Division of Consumer Services

Virginia L. Smith, Director	404
Consumer Hotline	1-800-772-4636 (1-800-PSC-INFO)

## Division of General Counsel

Deborah T. Eversole, Acting General Counsel	255
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# Complaint Resolution Service and PSC Consumer Hotline

**The Public Service Commission is continually working toward the goal of making access to the regulatory process easier and the information it provides more coherent to the public it serves.**

## **Informal Complaint Resolution**

Before contacting the PSC, a consumer should first try to resolve his complaint directly with the utility. If the customer has contacted the utility and been unable to resolve the situation, the Consumer Services staff will begin an investigation into the complaint.

Utility customers who contact the commission should be prepared to supply the following information to the Consumer Services staff:

- ♦ Name, phone number, address, city, county and zip code.
- ♦ The name of the utility representative with whom the customer has already made contact.
- ♦ The complete facts of the complaint, including any supporting documents, bills, letters, etc.
- ♦ Any action the utility took on the complaint.
- ♦ A brief explanation of the solution desired.

The Consumer Services staff assists in resolving a wide range of utility problems including improper termination of service, unauthorized or incorrect charges on utility bills, problems reading meters, customer deposits for utility services, poor quality of service and problems with delayed connection of services.

Although the PSC cannot resolve every complaint to the customer's satisfaction, investigators take prompt action on all complaints, and resolve them appropriately, as determined by the statutes and regulations that apply to the utilities under our jurisdiction.

The Public Service Commission operates a hotline to answer complaints and questions customers have about utility services under PSC jurisdiction. Through this hotline, Consumer Services investigators resolve thousands of complaints through informal means, saving Commission staff and utility customers time and money.

When customers are looking for information about utility services, or would like to report a problem, they can find help by dialing 1-800-772-4636 or 1-800 PSC INFO. The hotline is open 8 a.m. to 5 p.m. Monday through Friday, Eastern time, except for state holidays.

## **CONSUMER HOTLINE**

Kentucky Public Service Commission



**1-800-772-4636**  
**psc.ky.gov**

## **FORMAL COMPLAINTS**

**When a complainant feels that only formal action by the Commission can resolve the matter, a formal complaint may be filed. A formal complaint must be made in writing, but an attorney is not required.**

**In response to a formal complaint, the Commission will require the utility to explain why the complaint cannot be resolved. The Commission also may schedule a formal hearing on the complaint.**

# Consumer Complaints Filed with the Public Service Commission During the 2001-2003 Biennium

**July 1, 2001 to June 30, 2002**

	Telephone	Electric	Gas	Water	Sewer	Total
<b>Billing</b>	<b>924</b>	<b>184</b>	<b>85</b>	<b>80</b>	<b>3</b>	<b>1276</b>
<b>Slamming</b>	<b>451</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>451</b>
<b>Service</b>	<b>650</b>	<b>183</b>	<b>39</b>	<b>101</b>	<b>3</b>	<b>976</b>
<b>Disconnect</b>	<b>527</b>	<b>133</b>	<b>71</b>	<b>37</b>	<b>1</b>	<b>769</b>
<b>Non-jurisdictional</b>	<b>460</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>460</b>
<b>Other</b>	<b>338</b>	<b>215</b>	<b>56</b>	<b>64</b>	<b>6</b>	<b>679</b>
<b>TOTALS</b>	<b>3350</b>	<b>715</b>	<b>251</b>	<b>282</b>	<b>13</b>	<b>4611</b>

**July 1, 2002 to June 30, 2003**

	Telephone	Electric	Gas	Water	Sewer	Total
<b>Billing</b>	<b>979</b>	<b>189</b>	<b>75</b>	<b>68</b>	<b>1</b>	<b>1312</b>
<b>Slamming</b>	<b>201</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>201</b>
<b>Service</b>	<b>1153</b>	<b>350</b>	<b>35</b>	<b>114</b>	<b>5</b>	<b>1657</b>
<b>Disconnect</b>	<b>462</b>	<b>156</b>	<b>42</b>	<b>25</b>	<b>0</b>	<b>685</b>
<b>Non-jurisdictional</b>	<b>5</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>5</b>
<b>Other</b>	<b>545</b>	<b>202</b>	<b>58</b>	<b>68</b>	<b>3</b>	<b>876</b>
<b>TOTALS</b>	<b>3345</b>	<b>897</b>	<b>210</b>	<b>275</b>	<b>9</b>	<b>4736</b>

# Information Management

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## PSC on the World Wide Web: [psc.ky.gov](http://psc.ky.gov)

The PSC's web site offers a wealth of information for consumers, utility personnel, journalists and anyone else needing information about utility services in Kentucky. The web site is updated daily, so the information is always up to date.

The site includes a general information section, with the PSC mission statement, consumer information, recent press releases and current PSC events.

Also on the web site are the current statutes and regulations that utilities under our jurisdiction are subject to, organization of the PSC, including a staff directory and areas of responsibility.

The web site also includes a posting of all recent Commission decisions, as well as docket information, including a complete docket report, a listing of cases

filed and closed within the last 30 days, and a hearing schedule.

A searchable repository of all Commission decisions issued since 1980 may also be accessed through the web site.

Commission hearings are broadcast live on the web site. A video archive of past hearings also is available.

A new feature, added during the biennium, has been implementation of a web-portal, through which the Commission may accept electronic filings of case-related documents.

Citizens will also find utility information on the web site, including contact information, utility web sites and tariffs. Also available are utility service area maps, and utility annual reports dating back to 1994.

Forms for utility filings are posted on the site, as well as information about the Commissioners, and links to other web sites.

The consumer information link directs utility customers to information about the division and its services. Consumers may file a complaint online or contact the division by e-mail. A variety of consumer brochures on various issues related to telecommunications, electricity, gas and water service are available for downloading.



## Electronic filing

A major goal of the Public Service Commission during the 2001-2003 biennium has been to move in the direction of a fully electronic filing system. This will simplify the filing process for

**PUBLIC SERVICE  
COMMISSION  
OF KENTUCKY**

regulated utilities and for other parties to a case, as well as reduce the volume of paper documents handled by the PSC staff. It also will make documents more readily available on the PSC web site.

During the biennium, a number of cases were filed electronically on a pilot basis. In addition, cases before the Kentucky State Board on Electric Generation and Transmission were filed electronically. The filing system was upgraded in mid-2003 to

improve computer network security and to make it easier to retrieve documents.

Based on the initial experience, the PSC believes that moving to electronic filing to the greatest extent possible is both practical and desirable. The PSC intends to continue toward that goal.

However, people without the capability to file electronically will continue to be able to file documents with the PSC in the customary manner.



# Significant Cases and Issues

**Restructuring in the electric and telecommunications industries posed significant challenges for the Commission during the biennium. The PSC also dealt with instability in the natural gas market, a catastrophic ice storm and a new process for siting independent electric power production facilities.**

## **Electricity Issues and Cases**

The electric industry continued to see significant changes and uncertainty during the last biennium. Major developments included the fallout from the Enron bankruptcy, the Federal Energy Regulatory Commission's (FERC) plan to impose a Standard Market Design (SMD) in wholesale electricity markets across the country, and changes in the structure and membership of Regional Transmission Organizations (RTOs).

Change in the industry is being driven by a number of moves to create competition: the Energy Policy Act of 1992, which opened the national electricity grid to wholesale suppliers and non-utilities; FERC's Order 888, which required that the grid be opened to non-utilities under nondiscriminatory rates and conditions; and FERC Order 2000, which encouraged the voluntary creation of RTOs, in order to place the nation's transmission systems under regional control for the purpose of eliminating remaining alleged discriminatory practices and achieving fully competitive wholesale markets.

The economic downturn in 2001 and 2002 coincided with the financing and construction of an excess of unregulated generating capacity nationwide. This overcapacity and the aftermath of the collapse of the Enron Corp. led to a fundamental

change in the way capital markets view the electric industry. Investors and stock analysts no longer view electric utilities as the safe, conservative investments they had been historically. Many utilities and energy trading firms have had their credit ratings reduced, which has contributed to a much greater degree of credit risk within the industry than there was two years ago.

Prior to the onset of these financial problems, independent electric power producers and their financial backers had viewed Kentucky as an ideal location for merchant generating plants that would sell their output into the grid at market prices. Kentucky provides easy access to both the electric grid and the interstate natural gas pipelines that could supply gas-fired electric generators producing power at times of peak demand and price.

Concerns about the impact of numerous such plants on the environment and on the reliability of service to Kentucky electric customers led Gov. Paul Patton to issue a June 19, 2001, executive order placing a moratorium on the construction of any merchant plants that had not yet applied for state permits. Gov. Patton also ordered the Commission to analyze the impact on Kentucky's electric transmission grid of the 24 plants that had been proposed as of the middle of 2001. The analysis was con-

ducted as Administrative Case No. 387, which the Commission opened in July 2001.

The 2002 Kentucky General Assembly created the Kentucky State Board on Electric Generation and Transmission Siting, giving it authority over the siting of merchant power facilities. The three members of the PSC serve on the Board and the PSC staff serves as the Board staff.

The same legislation also included a provision (KRS 278.214) prohibiting a regulated electric utility in Kentucky from curtailing or interrupting retail electric service due to an emergency on its transmission system until after it has curtailed or interrupted service to customers who have agreed to receive interruptible service as well as to customers outside its territory

## **Adequacy of Generation and Transmission, Administrative Case No. 387**

A number of stakeholders participated in Administrative Case No. 387, including electric utilities, traditional intervenors and municipal electric utilities. The Commission engaged Commonwealth Associates, Inc. a consulting engineering firm, to analyze the reliability of Kentucky's electric transmission grid and the potential impact the planned merchant generating plants could have on that grid.

On December 21, 2001, the Commission presented its final Order in Administrative Case No. 387 to Governor Patton and the Energy Policy Advisory Board, which had been created by executive order earlier that year to gather data and help formulate an energy policy for the Commonwealth.

The Commission found that most of Kentucky's major regulated electric utilities were adequately managing their existing generation resources and adequately planning to meet their needs for additional generation in the future. But it expressed concerns that American Electric Power (AEP) – Kentucky and The Union Light, Heat and Power Company (ULH&P), which are part of larger utility systems affected by electric deregulation in Ohio, had not made adequate plans for meeting their future generation needs.

The Commission also found that Kentucky's existing electric transmission grid was reliable and could in most cases adequately accommodate the increased physical demands the proposed merchant power plants would cause, depending on the location of those plants. However, the Commission found that the grid was not designed for and could not accommodate

wholesale market activity on the scale envisioned by FERC. Administrative Case No. 387 has remained open to allow the Commission to collect additional information from the major electric utilities under its jurisdiction.

### **Regional Transmission Organization Issues**

Some aspects of the creation and operation of RTOs changed during the biennium. The Midwest Independent System Operator (MISO) was approved by FERC in late 2001, to begin operations in early 2002. MISO's membership includes Louisville Gas and Electric Company and Kentucky Utilities Company, as well as Cinergy, the parent company of ULH&P. MISO has proposed expanding its role involving wholesale markets and wholesale power transactions, as envisioned by FERC's SMD proposal. LG&E/KU and the Commission have contested, both at FERC and in the federal courts, many of MISO's proposed changes, primarily on the basis that Kentucky's utilities will bear significant costs but receive few benefits from such changes.

AEP-Kentucky and the other AEP companies had planned to join the Alliance RTO. However, FERC ruled in late 2001 that the Alliance did not meet its criteria for RTOs and directed AEP and other prospective Alliance members to pursue RTO membership elsewhere. In 2002, AEP announced that it would join PJM Interconnection, LLC, an established power pool organization in Pennsylvania, New Jersey and Maryland, which had recently expanded to include PJM-West, covering parts of Virginia and West Virginia. In late 2002, AEP-Kentucky filed an

application with the Commission for approval to transfer operational control of its transmission facilities to PJM. Also in late 2002, East Kentucky Power Cooperative, which provide wholesale power to 16 electric distributive cooperatives in Kentucky, filed its application requesting Commission approval to join MISO. These applications were filed under legislation that was enacted in 2002 and codified as KRS 278.218.

### **AEP-Kentucky's Request to Join PJM, Case No. 2002-00475**

AEP-Kentucky filed its application to transfer control of its transmission facilities to PJM on December 19, 2002. On July 17, 2003, the Commission denied AEP-Kentucky's request on the grounds that AEP-Kentucky and its customers would incur annual costs of at least \$3 million as PJM members, but would receive few, if any, benefits.

(NOTE: As of the date of this report, this case remains open on rehearing in order to allow AEP and PJM to present new evidence, including a Kentucky-specific cost-benefit analysis.)

### **East Kentucky's Request to Join MISO, Case No. 2002-00327**

East Kentucky filed its application requesting approval to transfer control of transmission facilities to MISO on September 5, 2002. In February 2003, East Kentucky requested that the case be put on hold while it re-evaluated the potential costs and benefits of its membership in MISO. East Kentucky subsequently withdrew its request for approval to join MISO and the case was dismissed.



### **East Kentucky's Construction of Gilbert No. 1, a Coal-Fired Generating Unit**

On March 3, 2001, East Kentucky filed for approval to construct Gilbert Unit No. 1, a 267-MW coal-fired baseload generating facility to be located at its Spurlock Generating Station in Mason County, Kentucky. A formal hearing was held on August 17, 2001 and on September 26, 2001, the Commission approved East Kentucky's proposal. Gilbert Unit No. 1, a fluidized-bed combustion unit, is scheduled to go into operation early in the summer of 2005. It will be the first coal-fired generating unit constructed in Kentucky since LG&E's Trimble County Unit No. 1 was completed in 1990.

### **LG&E and KU – The “Global Settlement”**

On October 31, 2001, LG&E and KU filed a unanimous Settlement Agreement, referred to as the “Global Settlement,” which resolved five cases filed with the Commission between March and June 2001.

Case Nos. 2001-00054 and 2001-00055 covered LG&E and KU's first annual Earning Sharing Mechanism (“ESM”) filings. LG&E's calculations showed that it should return \$600,000 to its ratepayers under the provisions of the ESM, while KU's calculations showed that KU was not required to return any monies to its ratepayers.

In Case Nos. 2001-00140 and 2001-00141, KU and LG&E sought approval of new depreciation rates. KU's total system annual depreciation expense would be reduced by \$6.1 million while LG&E's annual electric and gas depreciation expense would increase by \$.9 million.

Case No. 2001-00169 involved LG&E and KU's request for approval of certain accounting and ESM recognition of the expenses associated with LG&E and KU's 2001 Workforce Transition Separation Program (“Workforce Reduction”). LG&E had recorded an estimated \$144.4 million in Workforce Reduction expenses for its electric and gas operations. KU had recorded an estimated \$56.3 million in Kentucky jurisdictional Workforce Reduction expenses.

The terms of the Global Settlement were approved December 3, 2001 and included: LG&E and KU's first annual ESM filings would be accepted as submitted and certain revisions were adopted for filings to be made in 2002 and 2003.

KU's annual depreciation expense would be reduced by \$12.8 million, while LG&E's annual electric and gas depreciation expense would be reduced by \$5.3 million. In addition, LG&E and KU agreed to perform a new depreciation study no later than calendar year 2004.

LG&E and KU would be permitted to create deferred debits for their Workforce Reduction expenses. Ratepayers would receive 40 percent of the estimated net savings from the Workforce Reduction, receiving a bill credit over a five-year pe-

riod. LG&E's electric customers would receive \$19.8 million, LG&E's gas customers would receive \$5.1 million, and KU's Kentucky electric customers would receive \$9.6 million.

### **Electric Environmental Surcharge Cases**

The Commission has authorized environmental surcharges for KU, LG&E and AEP-Kentucky. During the biennium, all three utilities sought to include more environmental-related investments in their surcharges.

On August 12, 2002, KU filed Case No. 2002-00146, an application to amend its existing environmental compliance plan for a second time. KU proposed to include in its surcharge a capital project that controls fly and bottom ash. The Commission approved KU's amendment to its environmental compliance plan and authorized the inclusion of the project in the surcharge calculations on February 11, 2003.

On August 12, 2002, LG&E filed Case No. 2002-00147, an application to amend its existing environmental compliance plan a second time. LG&E proposed to include in its surcharge capital projects that control fly ash, bottom ash, and sulfur dioxide emissions. On February 11, 2003, the PSC approved LG&E's amendment to its environmental compliance plan, except for a project involving the expansion of a landfill, which was denied due to uncertainties about the project. The projects approved for the compliance plan were authorized to be included in the surcharge calculations. A September 4, 2003, order resolved certain issues raised on rehearing.





On September 30, 2002, AEP-Kentucky filed Case No. 2002-00169, an application to amend its existing environmental surcharge plan for the first time. AEP-Kentucky proposed to include in its surcharge capital projects that would reduce nitrogen oxide emissions to the levels mandated by the U. S. Environmental Protection Agency. The Commission approved AEP-Kentucky's amendments to its environmental compliance plan as proposed and authorized the inclusion of the capital projects, with minor modification, in the surcharge calculations by order dated March 31, 2003.

#### **Native Load Non-curtailment Tariff Cases**

KRS 278.214, enacted in 2004, requires Kentucky's regulated electric utilities to file tariffs that demonstrate compliance with a statutory requirement that non-interruptible customers within their Kentucky service territories will be the last to lose service in the event of a curtailment.

Big Rivers Electric Corp. and East Kentucky Power Cooperative, Inc. filed tariffs in compliance with the statute. KU, LG&E, AEP and ULH&P stated that federal law conflicts and takes precedence over the Kentucky statute. The PSC opened Case Nos. 2002-00345, 2002-00346, 2002-00348 and 2002-00349 to examine the issue.

On July 3, 2003, the PSC ordered the utilities to file tariffs conforming to KRS 278.214. The utilities appealed the decision in both state and federal court. (On Dec. 18, 2003, the U.S. District Judge Joseph Hood, in a procedural order, indicated agreement with state law. A final decision is pending.)



## **February 2003 Ice Storm**

In mid-February 2003, an ice storm struck much of central and northeastern Kentucky. More than 250,000 electric utility customers lost power.

Outages were concentrated in the Lexington area, but some of the worst damage was in outlying areas served by rural electric cooperatives.

About 146,000 (30 percent) Kentucky Utility customers were without power at the peak of the storm. All 16,000 Grayson RECC customers were without power at the peak of the storm, while 80 percent of Fleming-Mason RECC's lost power.

The storm deposited up to three inches of ice on lines, poles and other facilities. Utilities replaced a total of 3,100 poles and 800 transformers. Total damage to utility facilities was estimated to be \$47.2 million.

Restoration required the efforts of 4,800 workers, many brought in from other states. Most restoration was completed within a week, but some customers in isolated areas remained without power for as long as three weeks.

There were no major injuries to utility workers or area residents as the result of damage to electrical facilities or during restoration efforts. This commendable record reflects the emphasis the utilities placed on electrical and workplace safety. PSC staff investigated four house fires in Lexington that were caused by electrical problems that occurred when power was restored.

The PSC closely monitored recovery efforts, helped RECCs obtain outside assistance and served as a clearinghouse for information. PSC staff also worked loosely with the utilities to provide information to the public.

After restoration was completed, the PSC began an examination of the recovery efforts. Utilities were asked to provide specific information, and local officials were invited to offer their perspective. These responses were used as the basis for a report on how well utilities responded to the storm. (**NOTE:** The report was completed and issued in February 2004.)

### **Audit of Jackson Energy Cooperative**

The PSC conducted a focused management audit of Jackson Energy Cooperative from January through October 2002. The audit was mandated as part of Case No. 2000-373, in which Jackson Energy was seeking \$5.6 million in rate increase.

The primary objective of the audit was to determine the reasonableness of Jackson's general managerial functions and processes. A second objective was to determine whether there were adequate financial systems in place to track and maintain Jackson's financial integrity and accountability.

Jackson Energy had experienced some deterioration in its financial condition in the years prior to the audit, resulting in the filing of an 11.7% rate increase. Jackson Energy had also formed three subsidiaries that provide a variety of non-electric services.

The audit report contained 25 recommendations to help guide the Board of Directors and management in improving its policies, procedures and operations in several areas of the company including finance, communications, board and staff training, legal support, computer software, and risk management.

### **Audit of AEP/Kentucky - Hazard Service Area**

The PSC conducted a management audit of American Electric Power from August 2002 through March 2003. The Commission's 2001 Inspection Report noted that the service interruptions reported in AEP/Kentucky's Year 2000 Outage Report were probable violations of 807 KAR 5:041, Section 5(1) (Maintenance and Continuity of Service). Although significant capital had been invested in the Hazard Service Area since 1996, outages remained significantly higher than the average for AEP/Kentucky as a whole.

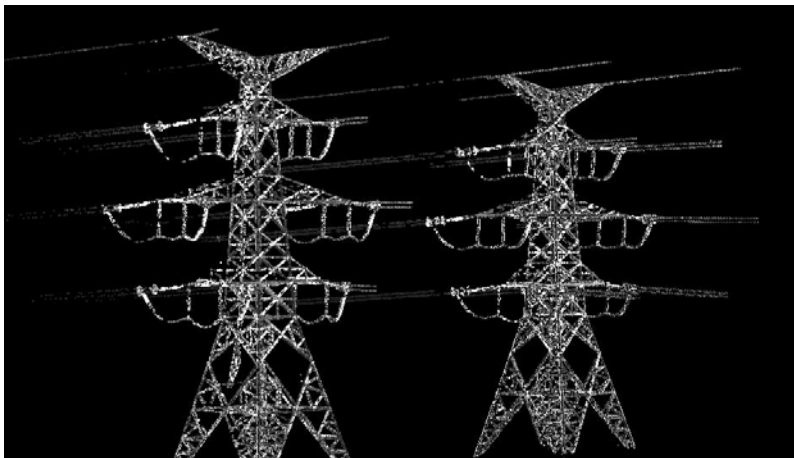
The audit reviewed AEP/Kentucky's maintenance of service quality and service reliability to customers in the Hazard Service Area. While the audit report noted areas of high performance, it also contained 23 recommendations. Areas needing improvement included vegetation management, distribution operations, and asset management. The audit report acknowledged the difficult terrain in AEP's Hazard Service Area. However, it determined that it is reasonable to expect improvements in service for customers in the area.

### **Audit of LG&E / KU Earning Sharing Mechanism (ESM)**

The PSC began a focused management audit of LG&E's and KU's ESM plan in February 2003. The audit was mandated as part of Case Numbers 98-00426 and 98-00474 for LG&E and KU, respectively, issued in January 7, 2000.

In part, these orders rejected the companies' proposed Performance Based Ratemaking ("PBR") mechanism and offered a simpler Earning Sharing Mechanism. The ESM was to be a pilot program for the three-year operating period 2000-2002, with a focused ESM audit following the end of 2002 operating period. The companies accepted the offer. Final orders on rehearing were issued in June 2000.

The audit has four primary objectives. The first is to identify each company's efforts and measurable results in achieving greater efficiencies as a result of the adoption of the incentive plan. The second is to identify any effects on service levels resulting from the adoption of the incentive plan. The third is to provide an objective appraisal of whether the incentive plan is an effective alternative to traditional rate of return regulation. Finally, if incentive regulation is determined to be an effective form of regulation with respect to each of the companies, the audit is to recommend specific changes, or if necessary, an alternative plan for continuation of incentive regulation.





## Kentucky State Board on Electric Generation and Transmission Siting

Shortly after its creation in 2002, the Siting Board received five notices of intent from parties proposing to construct merchant power facilities in Kentucky. Three of those parties subsequently applied to the Siting Board for construction certificates. They were:

### **Kentucky Mountain Power Case No. 2002-00149** (Knott County)

Application completed June 14, 2002. Certificate granted Sept. 5, 2002. An appeal filed in Knott Circuit Court was settled and the case was dismissed.

### **Kentucky Pioneer Energy Case No. 2002-00312** (Clark County)

Application completed Dec. 19, 2002. Certificate denied April 16, 2003, pending compliance with local planning and zoning regulations. (**NOTE:** Kentucky Pioneer was granted a conditional certificate on Nov. 10, 2003, but to date has not certified compliance with the conditions.)

**Thoroughbred Generation  
Case No. 2002-00150**  
(Muhlenberg County)  
(**NOTE:** Application was completed Aug. 4, 2003. A conditional certificate was granted Dec. 5, 2003. Thoroughbred has filed suit in Muhlenberg Circuit Court, challenging the conditions imposed in the certificate.)

Parties that filed notice but have not submitted applications are:

**Estill County Energy Partners  
Westlake Energy Corp.**  
(Marshall County)

## Natural Gas Issues and Cases

Price spikes and extreme price volatility continued to be a concern for gas distribution companies, their customers and the Commission. The extremely tight balance between natural gas supply and the demand for natural gas on a national basis has created a situation in which relatively minor disruptions in supply or changes in demand can trigger significant responses in the market.

Natural gas prices during the mild winter of 2001-2002 declined considerably from the record levels seen during the previous heating season. However, unseasonably cold weather late in the winter of 2002-2003 led to another price spike, with wholesale costs reaching the near-record level of \$10 per thousand cubic feet (Mcf).

More troubling than the price spike was the absence in 2003 of the usual late-spring decline in prices. With volumes of stored gas at a five-year low, and the proliferation of gas-fired electric power generation facilities, gas prices in late spring and early summer remained in the range of \$5 to \$6 per Mcf, or about twice the level in recent years, as the market anticipated increased demand.

Federal Reserve Board Chairman Alan Greenspan and others warned in June 2003 that the natural gas market had changed permanently and that prices were unlikely to moderate significantly in the foreseeable future.



The PSC has closely monitored the natural gas market in Kentucky. In May 2003, the Commission met with representatives of the five major local distribution companies (LDCs) to review the 2002-2003 heating season, to assess the prospects for the 2003-2004 season and to discuss possible measures to reduce price volatility.

In June 2003, PSC staff met with the public information officers of the five major LDCs and with representatives of other state agencies to discuss a coordinated campaign to educate the public about natural gas prices and measures that consumers can take to reduce their heating bills. The campaign began later that month.

The Commission also continued to review the issues raised in its Administrative Case No. 384 and conducted ongoing discussions with the LDCs about their natural gas procurement practices.

### **Investigation of Increasing Wholesale Natural Gas Prices, Administrative Case No. 384 and Related Issues**

Administrative Case No. 384 was closed in mid 2001. However, the case led to the Commission's decision to engage The Liberty Consulting Group to conduct a focused management audit of the Kentucky's major gas distribution utilities' gas procurement practices and procedures. The audit was completed in late 2002. Liberty concluded that the five major LDCs - Atmos Energy, Columbia Gas of Kentucky, Delta Natural Gas Company, Louisville Gas and Electric Company, and The Union Light, Heat and Power Company - were generally performing well in the area of gas procurement and supply. Liberty had recommendations for each of the utilities to improve various aspects of gas procurement. Commission staff is following up on Liberty's recommendations with the gas utilities through its established management audit procedures.

Administrative Case No. 384 led the Commission to encourage the major gas utilities to consider innovative approaches to mitigating the volatility in wholesale natural gas prices. In response, and with follow-up by PSC staff, four of the utilities have sought Commission approval to implement mitigation measures commonly referred to as "gas price hedging plans." Hedging plans allow the utilities to undertake multiple procurement strategies in order to purchase gas at predetermined fixed prices, within agreed-upon upper and lower limits, or pursuant to contracts which give the utilities options to purchase gas

at a specific price, with a utility having discretion to exercise such an option when market prices dictate that exercising the option is more economical than purchasing at market.

### **ULH&P's Accelerated Main Replacement Program, Case No. 2001-00092**

On May 4, 2001, ULH&P filed an application to increase its gas rates, its first such rate increase since 1992. Included in ULH&P's application was a proposal to establish a surcharge to recover from ratepayers outside of a general rate case the investment in and operating costs associated with its Accelerated Main Replacement Program ("AMRP"). Under the AMRP, ULH&P intends to replace 150 miles of cast iron and bare steel mains over a 10-year period. The surcharge is calculated on an annual basis and uses traditional rate-making theory. On January 31, 2002, the Commission approved the proposed AMRP surcharge, with some modifications. The primary modification was that the surcharge was only authorized for a 3-year period. If ULH&P wished to continue the AMRP beyond the first 3-year period, it will have to file a general rate application in order to "roll-in" the existing surcharge into base rates and to justify the surcharge continuation.

On March 27, 2002, ULH&P filed its application to establish the AMRP surcharge. On August 30, 2002, the Commission approved the AMRP surcharge, which permitted ULH&P to collect \$800,000 from ratepayers in the first year. On March 31,

2003, ULH&P submitted its second filing under the AMRP and proposed to increase the surcharge to reflect the additional main replacements under the program. On August 25, 2003, the Commission approved ULH&P's adjustment to the AMRP surcharge, which permits ULH&P to collect \$2.9 million in the second year.

### **Columbia Gas of Kentucky Rate Reduction, Case No. 2002-00145**

On May 1, 2002, Columbia Gas of Kentucky ("Columbia") filed an application to increase its gas revenues annually by \$2.5 million. Columbia was required to file this application as a condition of the Commission's June 30, 2000, approval of the merger of Columbia Energy Group and NiSource, Inc. The application was to reflect the impact of savings achieved and expected as a result of the merger. In September 2002, Columbia informed the Commission that it was negotiating a settlement with the intervenors. On October 2, 2002, Columbia and the intervenors filed a joint stipulation resolving all issues in the rate case. The joint stipulation was subsequently modified to address specific concerns raised by the Commission staff. The main provisions of the modified joint stipulation included an annual reduction in operating revenues of \$7.8 million beginning on March 1, 2003; continuation of an Energy Assistance Program, to be funded by both Columbia and its ratepayers; and the implementation of new depreciation rates. The Commission approved the modified joint stipulation in total in its December 13, 2002 order.

## **Audit of Natural Gas Purchasing Practices**

A focused management audit of Kentucky's five major gas local distribution companies was conducted from October 2001 through November 2002.

During 2001-2002 heating season, the price of natural gas reached new levels of volatility and new highs, with serious impacts on retail gas customers in Kentucky. The purpose of the focused audit, which grew out of Administrative Case Number 384, was to examine whether the LDCs' gas planning and procurement strategies are appropriate in today's more volatile natural gas markets.

The audit had two primary goals. The first was to determine whether the LDCs' planning, procurement, and supply management organizations are designed to produce a gas supply portfolio which adequately addresses the issues of minimizing cost to retail customers, reasonably mitigates price volatility, and maintains a reasonable level of reliability. Areas examined were demand forecasting and load research, gas procurement, gas control and storage, and gas supply management. The audit report noted areas in which each of the LDCs performed effectively and efficiently. The report also noted areas for improvement for the utilities.

The second audit goal was to further train PSC staff in order to examine LDC gas planning and procurement strategies. An Audit Workplan and a Gas Audit Training Manual were produced for PSC staff. A series of training seminars also was held for PSC staff.

## **Telecommunications Issues and Cases**

The telecommunications industry continued to undergo rapid change during the last biennium. The Public Service Commission focused on insuring that Kentucky residents would continue to have access to basic telephone service at a fair and reasonable price and that competition in the industry would lead to expanding access to a range of communication services.

Several major cases dealt with Kentucky's largest local exchange company, BellSouth. These included BellSouth's petition for entry into the long-distance market and a number of cases arising from disagreements between BellSouth and Internet service providers that pay BellSouth for access to its infrastructure in order to serve their customers.

The PSC also considered ALLTEL's acquisition of the Kentucky assets of Verizon South, an incumbent local exchange carrier.

In 2002, the Kentucky General Assembly removed the PSC's authority over the siting of cellular phone towers in jurisdictions with local planning and zoning authority.



## **BellSouth Application for Entry into Long Distance Market, Case No. 2001-105**

In May 2001, BellSouth filed a request with the Commission for an advisory opinion that the company has met the 14 requirements imposed by the Telecommunications Act of 1996 for sufficiently opening its local markets to competition. Such a finding would support the company's application with the FCC for approval of its providing long distance service in Kentucky. Similar filings are to be made for each state the company serves.

On April 26, 2002 the Commission made a recommendation to the FCC that BellSouth had met the 14 point checklist and should be allowed to provide long distance service in Kentucky. Subsequently BellSouth filed its application with the FCC for permission to provide long distance service in Kentucky. The FCC granted BellSouth's application on September 18, 2002.

## **Petition by ALLTEL Corporation to acquire Kentucky assets of Verizon South, Incorporated, Case No. 2001-00399**

On February 13, 2002, the Commission approved ALLTEL's acquisition of Verizon's Kentucky assets, subject to 13 specific conditions. The Commission found that ALLTEL had the financial, technical and managerial ability to provide reasonable service to Kentucky customers, provided that it meets the conditions set forth by the PSC. The PSC continues to monitor ALLTEL's compliance with the conditions.

**Rates for Unbundled Network Elements ("UNEs"), Administrative Case No. 382**

On December 10, 1999, the Commission initiated this proceeding to implement 47 C.F.R. 51.507(f), the FCC regulation requiring, by May 1, 2000, geographic deaveraging for Unbundled Network Elements (UNEs) - the individual telecommunication network components sold by incumbent carriers to competing carriers. UNEs are made available at fair and reasonable rates to promote competition in telecommunication services. On January 19, 2000, a Joint Stipulation regarding UNE deaveraging was filed on behalf of several of the major carriers. The Joint Stipulation specified certain deaveraged rates without adopting a particular methodology. This stipulation was adopted by Order on March 24, 2000 and implemented May 1, 2000. It applies only to a limited number of commonly-sought network elements.

On October 2, 2000, each of the major incumbent local exchange carriers (ILECs) filed cost analyses with the Commission. BellSouth filed new TELRIC (Total Element Long Run Incremental Cost ) studies for the unbundled elements defined by the FCC and for combinations of unbundled elements. BellSouth used a series of company-specific models, special studies, and subject matter experts to determine forward-looking, efficient architecture, as well as engineering and provisioning procedures required to provide the functionality of each of the UNEs and UNE combinations.

Though BellSouth, Verizon, and Cincinnati Bell Telephone (CBT) each had models and proposals

pending review, it was apparent that investigating each of these three distinct cost study methodologies simultaneously would be a formidable task. Therefore, the Commission decided to review initially BellSouth's cost studies to establish UNE rates for BellSouth. BellSouth's UNE rates will be established first because BellSouth has interconnection agreements with its major competitive local exchange carriers (CLECs) that had recently ended. The Commission approved the UNE rates for BellSouth on December 18, 2001.

The Commission next addressed CBT's unbundled network elements costs and prices, issuing its decision in this case on July 3, 2003. The Commission will next address setting UNE rates for Kentucky Alltel.

**Petition of Cinergy Communications Company for arbitration of an interconnection agreement with BellSouth, Case No. 2001-00432**

On October 15, 2002, the Commission determined that BellSouth may not refuse to provide any DSL service to a customer because that customer receives UNE-P- based voice service from a competitive local exchange carrier. The basis of this decision was that a Kentucky customer must be able to obtain DSL service regardless of the voice carrier he chooses. Moreover, the Commission prohibited BellSouth from assessing a separate loop charge to a DSL customer simply because the customer receives voice from a competitor on a UNE-P basis. Bell South challenged the decision in U.S. District Court in Frankfort. In December 2003, U.S. District Judge Joseph Hood upheld the PSC decision.

**SPIS.net v. BellSouth, Case No. 2001-00099**

In this complaint case, SPIS.net, an Internet service provider (ISP), alleged that BellSouth gave an unreasonable preference, in violation of KRS 278.170, to Hopkinsville Electric. The Commission determined that SPIS.net had requested from BellSouth a "like and contemporaneous service under the same or substantially the same conditions" (KRS 278.170) and that its volume and term commitments were comparable to those of Hopkinsville Electric. Thus, SPIS.net should receive the same primary rate interface (PRI) rate as Hopkinsville Electric. The Commission emphasized that its decision does not prohibit BellSouth or any other incumbent carrier from providing special rates to similarly situated customers who are eligible for a competitive offer. The Commission simply concluded that pricing the same service differently from customer to customer based on the single difference that one customer has received or allegedly received an offer is inappropriate.

Based on this case and on Case No. 2001-00068, the Commission decided to consider policy implications of current contract service arrangement resale practices of BellSouth and other carriers and whether those CSAs should be filed with the Commission in the future. This investigation is docketed as Case No. 2002-00456 and is pending Commission decision.



### **Computer Innovations v. BellSouth, Case No. 2001-00068**

Computer Innovations LLC, an Internet service provider, complained that BellSouth was charging noncompetitive rates on primary rate interface (PRI) service and basic rate interface (BRI) service. Computer Innovations alleged that its rate for PRI service should be identical to the rate BellSouth offered to "similarly situated customers" such as Hopkinsville Electric. The PSC determined that Computer Innovations and Hopkinsville Electric appear to be similarly situated and thus required Computer Innovations to accept BellSouth's provision of service at Hopkinsville Electric rate.

### **Changes in land-to-mobile dialing and tariffs**

In late 2002 and early 2003, BellSouth and other incumbent local exchange carriers instituted changes in the way calls from land lines to certain mobile phones would have to be dialed. Calls which once required seven-digit dialing now required 11-digit dialing. Depending on the circumstances, long-distance charges also might be assessed for these calls. The dialing changes were necessitated by a Federal Communications Commission decision changing the way that cell phone numbers are assigned to carriers.

The changes led to customer confusion and prompted hundreds of complaints to the PSC. The PSC met with ILECs and mobile phone providers and facilitated an agreement to postpone further changes to permit additional consumer education. The PSC also made efforts to inform consumers of the changes.

## **Water and Sewer Issues and Cases**

In the past biennium, the PSC continued its efforts to meet the mandate set forth by the General Assembly in 2002 in House Bill 409 that all Kentuckians have access to potable water and to wastewater treatment. The Commission has actively supported the regionalization and infrastructure goals expressed in that bill.

The Commission has worked closely with the Kentucky Infrastructure Authority in the Authority's attempt to move non-regulated municipal water utilities to water rates that are based on the utility's costs of operation. As part of this involvement, the Commission, primarily through its Financial Audits Branch, was instrumental in developing a Uniform System of Accounts for Municipal Utilities. The Commission, through its staff, has also reviewed and developed municipal cost of service studies both on behalf of the Authority and often at the request of the municipal utility.

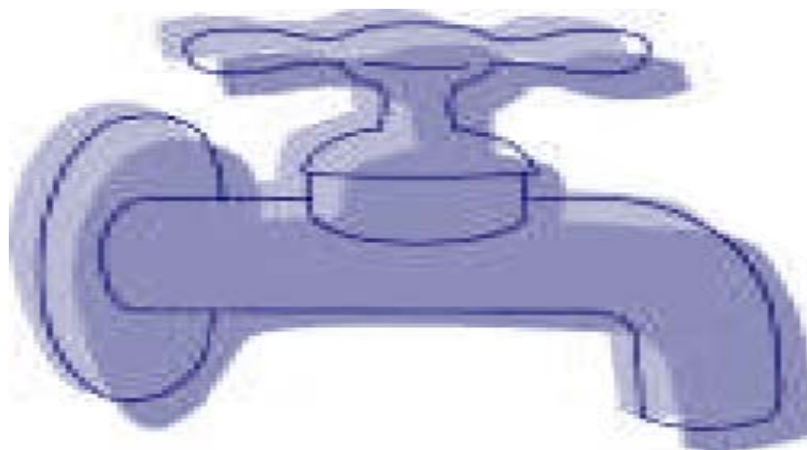
During the biennium, the Commission approved the transfer of ownership of the Kentucky American Water Company to Thames Water, a subsidiary of RWE, a multinational holding company headquartered in Germany. The

Commission also approved the financing arrangements that allowed the Northern Kentucky Water District to acquire the water utility assets of the city of Newport.

The Commission continued its involvement in addressing Kentucky-American's proposed solution to its source of supply deficit and examined the rates and conditions for extending fire protection service. The Commission processed one major water rate case, provided rate case assistance to numerous water and/or sewer utilities, and continued the successful statewide series of seminars for water utilities.

### **Water Seminars**

The Commission developed and conducted six seminars for water system personnel during the biennium. The seminars were held in different areas of the state in order to encourage attendance from all utilities. These seminars were offered to provide water utilities with information on how to file a rate case, rate design issues, cost of service studies, tariffs, legal issues and other relevant information. Utility response has indicated that the seminars have been of great benefit: the seminars will be continued for the foreseeable future.





**Transfer of Control of Kentucky-American Water Company to RWE Aktiengesellschaft (RWE), Case No. 2002-00018**

On January 30, 2002, the Commission established Case No. 2002-00018 to determine if the transfer of control of the Kentucky-American Water Company (Kentucky-American) to RWE was in the public interest.

Extensive discovery was conducted by Commission staff and intervening parties and a formal hearing was held. Many public comments also were received. On May 20, 2002, the Commission approved the transfer of Kentucky-American to RWE. The approval was conditioned upon RWE's acceptance of 61 conditions imposed by the Commission to ensure adequate protection of the public interest. All conditions of approval were accepted by RWE and the Commission established Case No. 2002-00277 to monitor compliance. Subsequently, the Commission established Case No. 2002-00317 to review the proposal of RWE to transfer Kentucky-American to TWUS, a wholly owned subsidiary of RWE with its headquarters in Voorhees, New Jersey. On December 20, 2002 this transfer was approved subject to the same conditions as the original transfer.

**Northern Kentucky Water District Rate Increase, Case No. 2002-00105.**

On October 21, 2002, the Commission opened its review of the Northern Kentucky Water District's proposal to issue revenue bonds in the amount of \$39,270,00, to construct improvements to its water facilities, and increase its revenue from rates by \$5,731,998. After extensive investigation and public hearings the Commission issued its order on April 30, 2003, allowing the proposals. The new rates provide a single rate structure throughout most of the Northern Kentucky Water District, replacing separate rates for customers in the former Campbell and Kenton county districts.

**Acquisition of the City of Newport's water utility by Northern Kentucky Water District, Case No. 2002-00066**

On February 26, 2002, Northern Kentucky Water District and the city of Newport entered into an Asset Acquisition Agreement whereby Northern Kentucky agreed to purchase Newport's water facilities for \$17,100,000. On April 16, 2002, the Commission issued an order authorizing Northern Kentucky to use \$17,100,000 of a previously approved bond issuance to accomplish this acquisition.

**Martin County Water District, Case No. 2002-00116**

On April 5, 2002, the PSC issued an emergency order in response to the discovery of serious equipment deficiencies and staffing problems at the Martin County Water District. The Commission's investigation determined that Martin County's 3,200 customers did not have a consistently safe and reliable source of drinking water.

Further investigation revealed financial and operating problems, including inadequate records and excessive water loss. Martin County subsequently contracted with an outside party for management of the district's operations. The PSC approved a settlement in the case on October 17, 2003.

**Water and/or Sewer Rate Case Assistance.**

In its continued efforts to mitigate regulatory delay and to reduce the cost of regulation, the Commission's staff will assist any water and/or sewer utility that requests that help with the preparation of rate case applications. During the biennium, the Commission's staff has provided this assistance to more than 45 utilities. In addition to the rate case assistance, staff has assisted numerous utilities with the preparation of purchased water adjustment and/or non-recurring charge filings.





# Statistics:

## Cases Filed and Orders Issued During the Biennium

Type of Case Filed	Number	Type of Orders Issued	Number
Abandonment	1	Abandonment	2
Administrative	6	Administrative	15
Complaints – Rates	15	Amended/Correction/Omission	48
Complaints – Rates, Service	2	Complaints – Rates	10
Complaints – Service	26	Complaints – Rates, Service	1
Complaints – Slamming	1	Complaints – Service	29
Confidentiality	2	Complaints – Slamming	1
Construct	125	Confidentiality	2
Construct, Finance, 278.023	18	Construct	164
Construct, Finance, Rates, 278.023	26	Construct, Finance, 278.023	18
Construct, Financing	14	Construct, Finance, Rates, 278.023	18
Construct, Rates, Financing	6	Construct, Financing	16
Construct, 278.023	1	Construct, Rates, Financing	8
Contracts	16	Construct, 278.023	1
Declaratory Order	3	Contracts	14
Demand-Side Management	15	Declaratory Order	3
Deviation	32	Demand-Side Management	18
Financing	46	Deviation	30
Franchises	24	Dismissal	3
Initial Operations	4	Financing	45
Integrated Resource Plan	4	Franchises	24
Interconnection Agreement	10	Hearing/Procedural/Informational	728
Investigation - Rates	4	Initial Operations	4
Investigation – Service	39	Integrated Resource Plan	1
Merchant Plant	2	Interconnection Agreement	17
Operate, Rates	2	Investigation - Rates	4
Other	25	Investigation – Service	46
Rates – ARF	18	Merchant Plant	1
Rates – FAC	87	Operate, Rates	1
Rates – General	23	Other	14
Rates – NRC	46	Rates – ARF	19
Rates – PGA	177	Rates – FAC	103
Rates – PWA	39	Rates – General	21
Surcharge	9	Rates – NRC	43
Tariffs	67	Rates – PGA	186
Territory/Boundary	6	Rates – PWA	37
Training or Certification	9	Rehearing	44
Transfer/Sale/Purchase/Merger	27	Show Cause	27
Total Cases filed during biennium	<b>967</b>	Surcharge	10
		Tariffs	67
		Territory/Boundary	4
		Training or Certification	8
		Transfer/Sale/Purchase/Merger	32
		Total Orders issued during biennium	<b>2,334</b>

# Statistics: Cases Filed and Orders Issued During the Biennium

## Listed by Utility Type

Utility Type	Number	Utility Type	Number
Investor-Owned Electric	107	Investor-Owned Electric	392
Rural Electric Cooperatives	134	Rural Electric Cooperatives	308
Gas Distribution Utilities	235	Gas Distribution Utilities	376
Intrastate Gas Pipelines	21	Intrastate Gas Pipelines	42
Gas – Safety Only	5	Gas – Safety Only	20
Radio Telephone	20	Radio Telephone	39
Cellular Companies	46	Cellular Companies	114
PCS Companies	43	PCS Companies	
Local Exchange Carriers	44	(Personal Comm. Services)	85
Competitive Local Exchange Carriers	14	Local Exchange Carriers	139
Long Distance Carriers	16	Competitive Local Exchange Carriers	36
Operator Service Providers	1	Long Distance Carriers	59
COCOTs (Pay Phones)	3	Operator Service Providers	1
Privately-Owned Water Companies	25	COCOT (Pay phones)	8
Water Districts	193	Privately-Owned Water Companies	108
Water Associations	26	Water Districts	428
Municipal Water Utilities	10	Water Associations	49
Sewer	24	Municipal Water Utilities	36
		Sewer	94
Total Cases filed during biennium	<b>967</b>	Total Orders issued during biennium	<b>2,334</b>

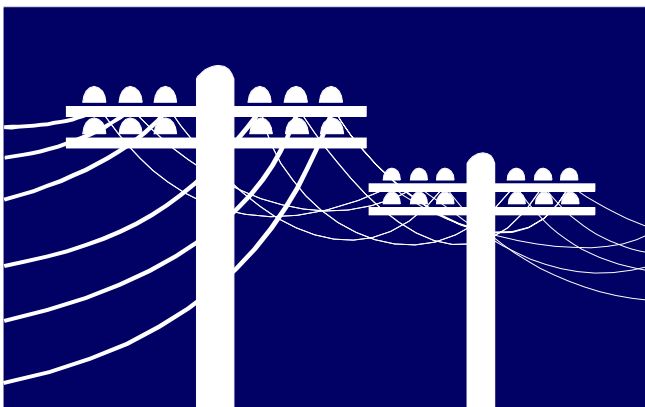
# Statistics: Cases Filed and Orders Issued During the Biennium

## For Electric Utilities

Type of Case Filed	Number	Type of Orders Issued	Number
Complaints – Rates	3	Amended/Correction/Omission	11
Complaints – Rates , Service	1	Complaints – Rates	1
Complaints – Service	5	Complaints – Service	4
Construct	10	Construct	10
Contracts	7	Construct, Financing	1
Declaratory Order	2	Contracts	7
Demand-Side Management	13	Demand-Side Management	17
Depreciation Methodology	1	Deviation	10
Deviation	9	Financing	14
Financing	16	Franchises	16
Franchises	16	Hearing/Procedural/Informational	287
Integrated Resource Plan	5	Initial Operations	1
Investigation – Rates	4	Integrated Resource Plan	1
Investigation – Service	16	Investigation – Rates	4
Rates – FAC	87	Investigation – Service	18
Rates – General	6	Motions	140
Rates – NRC	1	Other	1
Surcharge	5	Rates – FAC	103
Tariffs	25	Rates – General	4
Territory/Boundary	7	Rates – NRC	1
Transfer/Sale/Purchase/Merger	4	Rehearing	6
		Surcharge	7
		Tariffs	27
		Territory/Boundary	5
		Transfer/Sale/Purchase/Merger	4

Total Cases filed during biennium **243**

Total Orders issued during biennium **700**



# Statistics: Cases Filed and Orders Issued During the Biennium For Gas Utilities

Type of Case Filed	Number	Type of Orders Issued	Number
Abandonment	1	Abandonment	1
Complaints — Rates	1	Amended/Correction/Omission	6
Complaints — Rates, Service	1	Complaints — Rates	2
Complaints — Service	1	Complaints — Rates, Service	3
Confidentiality	1	Construct	5
Construct	4	Construct, Finance, Rates — 278.023	1
Construct, Finance, Rates — 278.023	1	Construct, Finance	2
Construct, Finance	2	Contracts	2
Contracts	4	Declaratory Order	1
Declaratory Order	1	Demand-Side Management	4
Demand-Side Management	4	Deviation	4
Deviation	7	Financing	11
Financing	11	Franchises	6
Franchises	6	Hearing/Procedural/Informational	101
Investigation — Rates	1	Investigation — Service	12
Investigation — Service	12	Motions	53
Rates — ARF	2	Rates — ARF	2
Rates — General	1	Rates — General	3
Rates — NRC	2	Rates — NRC	2
Rates — PGA	177	Rates — PGA	186
Surcharge	2	Surcharge	2
Tariffs	14	Tariffs	17
Transfer/Sale/Purchase/Merger	6	Transfer/Sale/Purchase/Merger	6
Total Cases filed during biennium	<b>262</b>	Total Orders issued during biennium	<b>438</b>





# Statistics: Cases Filed and Orders Issued During the Biennium

## For Telecommunications Utilities

Type of Case Filed	Number	Type of Orders Issued	Number
Arbitration	8	Amended/Correction/Omission	6
Complaints — Rates	10	Arbitration	16
Complaints — Rates, Service	25	Complaints – Rates	3
Complaints — Slamming	1	Complaints – Rates, Service	1
Confidentiality	1	Complaints – Service	17
Construct	9	Complaints — Slamming	1
Construct Cell Site — No P&Z		Confidentiality	2
Commission	59	Construct Cell Site — No P&Z	
Construct Cell Site — Uniform		Commission	53
Application	39	Construct Cell Site — Uniform	
Financing	1	Application	29
Franchise	2	Deviation	2
Interconnection Agreement	13	Financing	1
Investigation – Service	4	Franchise	2
Other	1	Hearing/Procedural/Informational	134
Tariffs	9	Interconnection Agreement	18
Transfer/Sale/Purchase/Merger	2	Investigation - Rates, Service	1
		Investigation – Service	14
Total Cases filed during biennium	<b>184</b>	Motions	96
		Other	1
		Rehearing	13
		Tariffs	8
		Transfer/Sale/Purchase/Merger	2
		Total Orders issued during biennium	<b>481</b>



# Statistics: Cases Filed and Orders Issued During the Biennium For Water Utilities

Type of Case Filed	Number	Type of Orders Issued	Number
Complaints – Rates	4	Abandonment	1
Complaints – Service	6	Amended/Correction/Omission	26
Construct	10	Complaints – Rates	4
Construct, Finance - 278.023	17	Complaints – Service	10
Construct, Finance, Rates - 278.023	15	Construct	12
Construct, Financing	13	Construct, Finance, Rates - 278.023	17
Construct, Rates, Financing	6	Construct, Financing	14
Contracts	7	Construct, Rates, Financing	8
Deviation	15	Construct, Finance - 278.023	17
Financing	18	Contracts	6
Initial Operations	2	Deviation	12
Investigation – Service	6	Financing	19
Other	1	Hearing/Procedural/Informational	191
Rates – ARF	9	Initial Operations	2
Rates – General	15	Investigation – Service	1
Rates – NRC	43	Motions	142
Rates – PWA	3	Rates – ARF	8
Surcharge	2	Rates – General	12
Tariffs	17	Rates – NRC	39
Training or Certification	3	Rates – PWA	38
Transfer/Sale/Purchase/Merger	11	Rehearing	1
Total Cases filed during biennium	<b>259</b>	Tariffs	14
		Training or Certification	2
		Transfer/Sale/Purchase/Merger	12
		Total Orders issued during biennium	<b>621</b>



## Statistics: Cases Filed and Orders Issued During the Biennium For Sewer Utilities

Type of Case Filed	Number	Type of Orders Issued	Number
Construct	2	Complaints – Rates	2
Construct, Finance - 278.023	1	Construct	1
Construct - 278.023	1	Construct, Finance - 278.023	1
Contracts	1	Construct - 278.023	1
Initial Operations	1	Hearing/Procedural/Informational	34
Investigation - Service	3	Initial Operations	1
Rates - ARF	8	Investigation - Service	2
Tariffs	2	Motions	26
Transfer/Sale/Purchase/Merger	6	Operate, Rates	1
		Rates - ARF	10
Total Cases filed during biennium	<b>25</b>	Rates - NRC	1
		Tariffs	2
		Transfer/Sale/Purchase/Merger	8
		Total Orders issued during biennium	<b>94</b>

*The information on the preceding pages offers a picture of the operation of the Public Service Commission. Utility annual report statistics and graphs are available on the PSC web site at [psc.ky.gov](http://psc.ky.gov)*

# Summary of Receipts and Expenditures

## Summary of Receipts by Kentucky PSC as of Fiscal Year Ended June 30, 2002. (All amounts rounded to the nearest \$100)

### General Fund:

Regular Appropriation	\$11,009,700
Continuing Appropriation	\$ <u>1,445,600</u>
Total	\$12,455,300

### Agency Fund:

Receipts for Xerox Copies	\$ 6,500
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### Federal Funds:

Gas Pipeline Safety Program	\$ <u>235,500</u>
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Grand Total	\$12,687,300
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## Total of expenditures by Kentucky PSC as of Fiscal Year Ended June 30, 2002. (Rounded to the nearest \$100)

**TOTAL \$ 10,943,400**

## Comparison of Expenditures

	FY02	FY03
Budget	\$11,446,500	\$12,046,300
Personnel	\$7,809,200	\$7,703,500
Operating	\$3,134,200	\$2,327,600

## Summary of Receipts by Kentucky PSC as of Fiscal Year Ended June 30, 2003. (All amounts rounded to the nearest \$100)

### General Fund:

Regular Appropriation	\$11,527,900
Continuing Appropriation	\$ <u>1,509,600</u>
Total	\$13,037,500

### Agency Fund:

Receipts for Xerox Copies	\$ 2,500
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### Federal Funds:

Gas Pipeline Safety Program	\$ <u>259,800</u>
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Grand Total	\$13,299,800
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## Total of expenditures by Kentucky PSC as of Fiscal Year Ended June 30, 2003. (Rounded to the nearest \$100)

**TOTAL \$10,031,100**



## Kentucky Public Service Commission Accommodations for Individuals with Disabilities

The Public Service Commission provides, upon request, reasonable accommodations and services necessary to afford an individual with a disability an equal opportunity to participate in all services, programs and activities. To request materials in an alternative format, contact the PSC at 502-564-3940. Persons with hearing or speech impairments can contact the agency by using the Kentucky Relay Service, a toll-free telecommunication device for the deaf (TDD). For voice to TDD, call 1/800-648-6057. For TDD to voice, call 1/800-648-6056.

You can e-mail the PSC at [\*psc.consumer.inquiries@ky.gov\*](mailto:psc.consumer.inquiries@ky.gov)



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